

WESTERN AUSTRALIA

LEGISLATIVE COUNCIL

MINUTES OF PROCEEDINGS

No. 38

WEDNESDAY, 20 NOVEMBER 2013

1. Meeting of Council

The Council assembled at 2.00pm pursuant to order.

The President, Hon Barry House, took the Chair and read prayers.

2. Petitions

Hon Phil Edman presented a petition from 491 petitioners requesting the Legislative Council to oppose the proposed sand mines on Banksia Road, Wellard and consider the negative impact upon the Carnaby Black Cockatoo and Rainbow Bee Eater. (Tabled Paper 1021).

Hon Alanna Clohesy presented a petition from 372 petitioners requesting the Legislative Council to support the creation of a railway museum on the grounds of the Midland Railway Workshop Site and reopening of the Railway Interpretive Centre. (Tabled Paper 1022).

3. Papers

The following Papers were laid on the Table by —

President

Auditor General's Papers —

Western Powers Management of its Wood Pole Assets (Report No. 17)
(November 2013) 981

Leader of the House

Annual Reports —

Australian Children's Education and Care Quality Authority (2012-2013)
(Date received 19/11/2013)..... 982

Regulations —

Liquor Control Act 1988 (Liquor Control (Irrungadji Restricted Area) Amendment Regulations
2013 G.G. 15/11/2013 and Liquor Control (Punmu Restricted Area) Amendment Regulations
2013 G.G. 15/11/2013) 983

Rates and Charges (Rebates and Deferments) Act 1992 (Rates and Charges (Rebates and
Deferments) Amendment Regulations (No. 2) 2013 G.G. 14/11/2013)..... 984

State Supply Commission Act 1991 (State Supply Commission Amendment Regulations 2013
G.G. 14/11/2013)..... 985

Minister for Mental Health

Local Laws —

Cemeteries Act 1986 (Shire of Ashburton Cemeteries Amendment Local Law 2013
G.G. 15/11/2013)..... 986

Dog Act 1976 (City of Kalgoorlie-Boulder Dogs Amendment Local Law 2013 G.G. 15/11/2013)	987
Local Government Act 1995 (Shire of Ashburton Activities on Thoroughfares and Public Places and Trading Amendment Local Law 2013 G.G. 15/11/2013 and Shire of Ashburton Local Government Property Amendment Local Law 2013 G.G. 15/11/2013)	988
<i>Regulations —</i>	
Environmental Protection Act 1986 (Environmental Protection (Clearing of Native Vegetation) Amendment Regulations 2013 G.G. 14/11/2013 and Environmental Protection (Controlled Waste) Amendment Regulations (No. 2) 2013 G.G. 14/11/2013).....	989
Planning and Development Act 2005 (Planning and Development Amendment Regulations (No. 2) 2013 G.G. 14/11/2013 and Town Planning Amendment Regulations 2013 G.G. 14/11/2013).....	990
State Enterprises (Commonwealth Tax Equivalents) Act 1996 (State Enterprises (Commonwealth Tax Equivalents) (Application) Amendment Regulations 2013 G.G. 14/11/2013).....	991
State Superannuation Act 2000 (State Superannuation Amendment Regulations (No. 2) 2013 G.G. 14/11/2013).....	992
Minister for Agriculture and Food on behalf of the Attorney General	
<i>By-laws —</i>	
Rottneest Island Authority Act 1987 (Health (Rottneest Island) Amendment By-laws 2013 G.G. 14/11/2013).....	993
<i>Regulations —</i>	
Building Services (Registration) Act 2011 (Building Services (Registration) Amendment Regulations (No. 2) 2013 G.G. 14/11/2013).....	994
Children's Court of Western Australia Act 1988 (Children's Court (Fees) Amendment Regulations 2013 G.G. 15/11/2013).....	995
Civil Judgments Enforcement Act 2004 (Civil Judgments Enforcement Amendment Regulations 2013 G.G. 15/11/2013)	996
Coroners Act 1996 (Coroners Amendment Regulations 2013 G.G. 15/11/2013)	997
District Court of Western Australia Act 1969 (District Court (Fees) Amendment Regulations (No. 2) 2013 G.G. 15/11/2013)	998
Evidence Act 1906 (Evidence (Video and Audio Links Fees and Expenses) Amendment Regulations 2013 G.G. 15/11/2013)	999
Magistrates Court (Civil Proceedings) Act 2004 (Magistrates Court (Civil Proceedings) Amendment Regulations 2013 G.G. 14/11/2013)	1000
Magistrates Court Act 2004 (Magistrates Court (Fees) Amendment Regulations (No. 2) 2013 G.G. 15/11/2013).....	1001
Residential Parks (Long-stay Tenants) Act 2006 (Residential Parks (Long-stay Tenants) Amendment Regulations 2013 G.G. 14/11/2013)	1002
Sentencing Act 1995 (Sentencing Amendment Regulations (No. 2) 2013 G.G. 14/11/2013)	1003
Settlement Agents Act 1981 (Settlement Agents Amendment Regulations (No. 2) 2013 G.G. 14/11/2013).....	1004
State Administrative Tribunal Act 2004 (State Administrative Tribunal Amendment Regulations (No. 3) 2013 G.G. 14/11/2013 and (State Administrative Tribunal Amendment Regulations (No. 4) 2013 G.G. 15/11/2013)	1005
Supreme Court Act 1935 (Supreme Court (Fees) Amendment Regulations (No. 2) 2013 G.G. 15/11/2013).....	1006
Water Services Licensing Act 1995 (Water Services Licensing (Plumbers Licensing and Plumbing Standards) Amendment Regulations 2013 G.G. 14/11/2013).....	1007

Responses to Reports —

Joint Standing Committee on Delegated Legislation — Report No. 63 — Information Report in relation to 8 various instruments (Date received 20/11/2013)	1008
--	------

Minister for Agriculture and Food*Management Plans —*

Biosecurity and Agriculture Management Act 2007 (Biosecurity and Agriculture Management (Fruit Fly) Management Plan 2013 G.G. 12/11/2013)	1009
Fish Resources Management Act 1994 (West Coast Rock Lobster Managed Fishery Management Plan Amendment 2013 [1165] G.G. 15/11/2013)	1010

Regulations —

Fish Resources Management Act 1994 (Fish Resources Management Amendment Regulations (No. 11) 2013 G.G. 15/11/2013)	1011
Land Information Authority Act 2006 (Land Information Authority Amendment Regulations 2013 G.G. 14/11/2013)	1012
Transfer of Land Act 1893 (Transfer of Land Amendment Regulations (No. 2) 2013 G.G. 14/11/2013).....	1013

Parliamentary Secretary representing the Minister for Transport*Reports —*

Dampier Port Authority – Statement of Corporate Intent (2013-2014) (Date received 19/11/2013).....	1014
--	------

Parliamentary Secretary representing the Minister for Health*Regulations —*

Health Act 1911 (Construction Camp Amendment Regulations 2013 G.G. 14/11/2013, Health (Temporary Sanitary Conveniences) Amendment Regulations 2013 G.G. 14/11/2013, Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Amendment Regulations 2013 G.G. 14/11/2013 and Health Act (Laundries and Bathrooms) Amendment Regulations 2013 G.G. 14/11/2013)	1015
--	------

Parliamentary Secretary representing the Minister for Training and Workforce Development*By-laws —*

Country Areas Water Supply Act 1947 (Country Areas Water Supply Amendment By-laws (No. 2) 2013 G.G. 15/11/2013 and Country Areas Water Supply Amendment By-laws 2013 G.G. 14/11/2013).....	1016
Metropolitan Water Supply, Sewerage, and Drainage Act 1909 (Metropolitan Water Supply, Sewerage and Drainage Amendment By-laws 2013 G.G. 14/11/2013)	1017
Water Agencies (Powers) Act 1984 (Water Agencies (Charges) Amendment By-laws (No. 2) 2013 G.G. 14/11/2013 and Water Agencies (Water Use) Amendment By-laws 2013 G.G. 14/11/2013).....	1018

Regulations —

Water Corporation Act 1995 (Water Corporations (Transitional Provisions) Regulations 2013 G.G. 14/11/2013).....	1019
Water Services Act 2012 (Water Services (Water Corporations Charges) Regulations 2013 G.G. 14/11/2013 and Water Services Regulations 2013 G.G. 14/11/2013)	1020

4. **Shire of Dundas Activities on Thoroughfares and Public Places and Trading Local Law 2013 — Disallowance**

Hon Robin Chapple: To move on the next day of sitting —

That, pursuant to recommendation of the Joint Standing Committee on Delegated Legislation, the *Shire of Dundas Activities on Thoroughfares and Public Places and Trading Local Law 2013* published in the *Gazette* on 20 August 2013 and tabled in the Legislative Council on 11 September 2013 under the *Local Government Act 1995*, be and is hereby disallowed. (Tabled Paper 557).

5. **Lotteries Commission (Internet Entries) Amendment Rules 2013 — Disallowance**

Hon Robin Chapple: To move on the next day of sitting —

That, pursuant to recommendation of the Joint Standing Committee on Delegated Legislation, the *Lotteries Commission (Internet Entries) Amendment Rules 2013* published in the *Gazette* on 3 September 2013 and tabled in the Legislative Council on 11 September 2013 under the *Lotteries Commission Act 1990*, be and are hereby disallowed. (Tabled Paper 555).

6. **Recreational Hunting Systems**

Motion No. 1 having been called, Hon Rick Mazza continued his introductory remarks in moving the motion as follows —

That the Council —

- (a) acknowledges the use in other States of regulated, licensed recreational hunting systems and the potential environmental contribution made in controlling pest animals on public lands, together with the possible economic, cultural and recreational benefits to the community; and
- (b) directs that —
 - (i) the *Environment and Public Affairs Committee* inquire into the benefits or otherwise of a similar system being adopted in Western Australia and report back to the House by 26 June 2014; and
 - (ii) Hon Rick Mazza be co-opted as a member to the *Environment and Public Affairs Committee* for the purposes of the foregoing inquiry.

Debate ensued.

Hon Helen Morton moved, without notice —

- (1) In paragraph (b)(i) to delete “*Environment and Public Affairs Committee*” and insert —

Public Administration Committee

- (2) In paragraph (b)(i) to delete “26 June 2014” and insert —

4 December 2014

- (3) In paragraph (b)(ii) to delete “*Environment and Public Affairs Committee*” and insert —

Public Administration Committee

Debate ensued.

Point of Order

Hon Nick Goiran raised the following Point of Order —

I draw attention to Standing Order 37(2), which states —

When debating a motion on notice under Standing Order 15(2), a Member may speak once —

- (a) on the motion and any amendment thereon; or
- (b) in reply.

Standing Order 15(2) deals with motions on notice, which is the business that is before the House. I understand that this Member has already spoken on this motion. I draw attention to the distinction between Standing Orders 37(1) and 37(2). Standing Order 37(1) has three limbs that allow a Member to speak, firstly, on the question; secondly, on any amendment; and, thirdly, on any reply. That is different to Standing Order 37(2)(a), which states that a Member can speak “on any motion and any amendment thereon” and it is together under one limb rather two separate limbs. My proposition is that a Member has one opportunity to speak on motions of this sort, whether it is on the substantive motion or on the amendment, but there is not the opportunity to do both. The Member has the opportunity to speak on the motion or on the amendment. If a Member happens to rise when the amendment has already been moved, then it is not a problem as the Member can speak in those circumstances; and, of course, a Member can also speak in reply if they are the mover. I draw those matters to your attention, Madam Deputy President, and seek your guidance.

Deputy President's Ruling

The Deputy President ruled as follows —

It is my understanding that the House, in consideration of the review of the Standing Orders, specifically considered this Standing Order and amended it to limit the number of times Members could contribute to a debate. The intention of that amendment was that a Member who has already spoken on the substantive question before the House, or the motion, would not get an opportunity to then speak on the amendment. That is my understanding of the decision made by this House during the review of Standing Orders. I am happy to leave the chair until the ringing of the bells to seek confirmation of my understanding of that decision from the President. I leave the chair until the ringing of the bells.

The Deputy President left the Chair at 4.03pm

The President resumed the Chair at 4.30pm

7. Questions Without Notice

Questions without notice were taken.

The Minister for Agriculture and Food on behalf of the Attorney General representing the Minister for Emergency Services tabled documents in relation to the Local Emergency Management Plan for the Local Government Area, in response to a question without notice asked by Hon Adele Farina. (Tabled Paper 1023).

The Parliamentary Secretary representing the Minister for Transport tabled documents in relation to Policy and Application Guidelines for Advertising Signs Within and Beyond State Road Reserves, in response to a question without notice asked by Hon Ken Travers. (Tabled Paper 1024).

The Leader of the House tabled, and by leave incorporated into Hansard, documents in relation to Barrow Island – Chevron Processing Facility, in response to a question without notice asked by Hon Robin Chapple. (Tabled Paper 1025).

The Leader of the House, incorporated into Hansard, an answer in relation to increased funding for education, in response to a question without notice asked by Hon Sue Ellery.

The Leader of the House tabled documents in relation to electricity generated on an annual basis, by various fuel types, in response to question on notice No. 336 asked by Hon Robin Chapple. (Tabled Paper 1026).

The Minister for Agriculture and Food representing the Minister for Forestry tabled documents in relation to accounts overdue beyond the Forest Products Commission's agreed trading terms, in response to question on notice No. 391 asked by Hon Lynn MacLaren. (Tabled Paper 1027).

8. President's Ruling — Recreational Hunting Systems

The President ruled as follows —

I would like to clarify a situation that arose at the end of the debate on this motion. The Deputy President (Hon Adele Farina) took a point of order from Hon Nick Goiran and referred that to me. The Deputy President, the Acting Clerk and I have discussed the matter and we have agreed on a way forward. Looking to an answer on the situation, the House needs to refer to Standing Order 37 to look for guidance. Standing Order 37 was amended to its current form on Wednesday, 30 November 2011, as a follow-up to the major review of Standing Orders in this place. If Members refer to *Hansard*, they will see that it was eloquently described and put by the former Deputy President, Hon Matt Benson–Lidholm and agreed to by the House that Standing Order 37(2) be incorporated in that Standing Order. We have examined that Standing Order as it is and agree that there is some ambiguity in the words and the way it is put; in other words, 37(2) provides an exemption from 37(1). If Members read the Standing Order, they will see that part 37(1) refers to general debates across the chamber's business but part 37(2) provides an exemption for motions on notice.

The intention was clear. The intention was to prevent a Member or a group of Members monopolising or diverting the debate away from the substantive content of the motion in a limited time frame, and that was the rationale behind the House deciding to change the Standing Order. On reflection, we may have used a sledgehammer to crack a nut. After some thought, this is my view. I do not consider it a very good practice, as it runs contrary to the general rules of debate on all other matters in this chamber and in general rules of debate in the community. However, if a literal interpretation of Standing Order 37 leads me to support the view of the Deputy President and uphold the point of order of Hon Nick Goiran, that would mean that Hon Sue Ellery was not entitled to speak on the amendment being moved to change the name of the committee.

I will suggest a way forward so that the House can determine its own destiny in this matter. I will ask the Leader of the Opposition to stand and seek leave to make a comment on the amendment, and if the House agrees, then we can proceed on that basis. This is obviously another matter that has emerged as a result of the major rewrite of the Standing Orders in 2010–11, and that was adopted during that period when that debate was on in 2011. It is similar to another matter the House will deal with later in today's sitting. As I said, the House is the master of its own destiny. It may decide to consider this matter then if it wishes to, or it may decide to refer the matter to the Standing Committee on Procedure and Privileges for further discussion, inquiry and clarification.

9. Recreational Hunting Systems

Debate resumed on the amendment of the Minister for Mental Health to the motion of Hon Rick Mazza (*see item 6 above*).

Hon Sue Ellery sought leave of the House to make additional comments on the amendment.

Leave granted.

Debate resumed.

Interruption pursuant to order.

10. Consideration of Committee Reports

Pursuant to order for the consideration of Committee Reports.

In Committee

(Hon Adele Farina in the Chair)

Joint Standing Committee on Delegated Legislation — Report No. 65 — Explanatory Report in Relation to the Legal professional Conduct Amendment Rules 2013

Hon Adele Farina moved, That the Report be noted.

Question — put and passed.

The President resumed the Chair.

The Chair of Committees reported that the Committee of the Whole House had considered the —

Joint Standing Committee on Delegated Legislation — Report No. 65 — *Explanatory Report in Relation to the Legal professional Conduct Amendment Rules 2013* and had noted same.

Report adopted.

11. Order of Business

Ordered — That Order of the Day No. 1, *Firearms Amendment Regulations 2013 — Disallowance*, be taken after Order of the Day No. 13, *Standing Committee on Procedure and Privileges — Report No. 28 — Further Review of the Standing Orders (No.2)*. (Leader of the House).

12. Standing Committee on Procedure and Privileges — Report No. 28 — Further Review of the Standing Orders (No. 2)

The Order of the day having been read, debate resumed on the motion of the Deputy President as follows —

That Report No. 28 of the Standing Committee on Procedure and Privileges in relation to the *Further Review of the Standing Orders (No. 2)* be adopted and agreed to.

The Leader of the House moved, without notice —

That consideration of Order of the Day No. 13, *Standing Committee on Procedure and Privileges — Report No. 28 — Further Review of the Standing Orders (No. 2)*, be taken in Committee of the Whole House.

Question — put and passed.

The President left the Chair.

In Committee

(President in the Chair)

The Leader of the House moved, without notice —

(1) To delete “adopted and agreed to.” and insert —

noted.

(2) That, in relation to the recommended amendments to the Standing Orders, the House adopts —

- (a) Recommendation 3;
- (b) Recommendation 6;
- (c) Recommendation 8;
- (d) Recommendation 10;
- (e) Recommendation 11;
- (f) Recommendation 12;
- (g) Recommendation 13;
- (h) Recommendation 14;
- (i) Recommendation 1;
- (j) Recommendation 2;
- (k) Recommendation 4;

- (l) Recommendation 5;
 - (m) Recommendation 7;
 - (n) Recommendation 9; and
 - (o) Recommendation 15.
- (3) That the Clerk be authorised to make further clerical amendments, as required, to the Standing Orders adopted by the House.

Amendment (1) — put and passed.

Amendment (2)(a) — put and passed.

Amendment (2)(b) — put and passed.

Amendment (2)(c) — put and passed.

Amendment (2)(d) — put and passed.

Amendment (2)(e) — put and passed.

Amendment (2)(f) — put and passed.

Amendment (2)(g) — put and passed.

Amendment (2)(h) — put and passed.

The President left the Chair at 5.46pm

The President resumed the Chair at 7.30pm

The Leader of the House moved that the Deputy Chair report progress.

Question — put and passed.

The President resumed the Chair.

The Deputy Chair of Committees reported that the Committee of the Whole House had considered the *Standing Committee on Procedure and Privileges — Report No. 28 — Further Review of the Standing Orders (No. 2)*, had made progress, and seeks to sit again.

Report adopted.

13. Firearms Amendment Regulations 2013 — Disallowance

Pursuant to SO 66(3) the following motion was moved *pro forma* by Hon Rick Mazza —

That the *Firearms Amendment Regulations 2013* published in the *Gazette* on 28 June 2013 and tabled in the Legislative Council on 7 August 2013 under the *Firearms Act 1973*, be and are hereby disallowed.

Debate ensued.

Question — put.

The Council divided.

Ayes (12)

Hon Alanna Clohesy
 Hon Kate Doust
 Hon Sue Ellery
 Hon Adele Farina
 Hon Nigel Hallett
 Hon Rick Mazza

Hon Simon O'Brien
 Hon Amber-Jade Sanderson
 Hon Sally Talbot
 Hon Ken Travers
 Hon Darren West
 Hon Samantha Rowe (*Teller*)

Noes (18)

Hon Martin Aldridge
Hon Ken Baston
Hon Liz Behjat
Hon Jacqui Boydell
Hon Paul Brown
Hon Robin Chapple
Hon Jim Chown
Hon Peter Collier
Hon Donna Faragher

Hon Dave Grills
Hon Alyssa Hayden
Hon Col Holt
Hon Peter Katsambanis
Hon Mark Lewis
Hon Robyn McSweeney
Hon Michael Mischin
Hon Helen Morton
Hon Phil Edman (*Teller*)

Question thus negatived.

14. Adjournment

The Council adjourned at 9.50pm until Thursday, 21 November 2013 at 10.00am.

Members present during the day's proceedings

Attendance: Present all Members except Hon Stephen Dawson and Hon Brian Ellis.

NIGEL LAKE
Acting Clerk of the Legislative Council

HON BARRY HOUSE
President of the Legislative Council